

Supreme Court of Florida

WEDNESDAY, JANUARY 11, 1989

FILE COPY

IN RE: EMERGENCY AMENDMENTS TO
RULES OF CIVIL PROCEDURE
AND RULES OF APPELLATE
PROCEDURE

Case No. 73,178

On October 17, 1988, this Court issued emergency amendments to the Rules of Civil Procedure and the Rules of Appellate Procedure relating to the termination of pregnancy. These amendments were deemed to be effective immediately. However, because of their emergency nature, we directed that any person could file with this Court within sixty days a petition seeking to change these emergency rules in any manner. In the meantime, by order entered December 30, 1988, we approved editorial revisions to Florida Rule of Civil Procedure 1.612.

Only two petitions seeking changes in the emergency amendments have been filed. Upon consideration of the petitions, Florida Rule of Civil Procedure 1.612 is hereby further amended through the elimination of section (c), which required the petition to be signed under oath, and the relettering of the subsequent sections of the rule. This further amendment shall be effective immediately and no petition for rehearing shall be permitted. The Court now approves the attached copy of rule 1.612 for publication.

It is so ordered.

A True Copy

JB

TEST:

cc: Barrette Saye Cunningham
Wm. J. Sheppard, Esquire
Gerry B. Rose, Director
CLE Publications

Sid J. White
Clerk Supreme Court.

Supreme Court of Florida

REVISED OPINION

No. 73,178

IN RE: EMERGENCY AMENDMENTS TO
RULES OF CIVIL PROCEDURE
AND RULES OF APPELLATE
PROCEDURE

[October 17, 1988]

PER CURIAM.

In 1988 the Florida Legislature amended section 390.001, Florida Statutes (1987), to provide for the obtaining of a court order authorizing for good cause the termination of pregnancy of an unmarried minor without the written consent of her parent, custodian, or legal guardian. The amendment contemplates that this Court will promulgate rules necessary to ensure that proceedings brought pursuant to the amendment are handled expeditiously and are kept confidential. Because the effective date of the amendment was October 1, 1988, there has been insufficient time to conduct the normal rulemaking procedures prescribed in rule 2.130 of the Rules of Judicial Administration. As a consequence, this Court hereby adopts rule 1.612 attached hereto as an emergency amendment to the Rules of Civil Procedure and rule 9.110(1) attached hereto as an emergency amendment to the Rules of Appellate Procedure.

These amendments shall be effective immediately, and no petition for rehearing shall be permitted. However, any person may file with this Court within sixty days a petition seeking to change these emergency rules in any manner.

It is so ordered.

EHRlich, C.J., and OVERTON, McDONALD, SHAW, BARKETT, GRIMES and KOGAN, JJ., Concur

RULE 1.612 TERMINATION OF PREGNANCIES OF UNMARRIED MINORS

(a) Commencement. The action shall be commenced by filing a petition in circuit court by the unmarried minor or another person on her behalf.

(b) Petition. No defect in the form of the petition shall impair substantial rights and no defect in the statement of jurisdictional facts shall render any proceeding void. The petition for termination of pregnancy shall state:

- (1) The interest of the petitioner and his or her name and address.
- (2) The date of birth of the minor.
- (3) The name, last known address, and telephone number of the parents, custodian, or legal guardian of the minor.
- (4) That the minor is under age of 18 years and unmarried.
- (5) That the minor is pregnant.
- (6) A short and plain statement of the facts and a reasonable basis for establishing any of the following:
 - (A) That the minor is sufficiently mature to give an informed consent to the procedure; or
 - (B) That consent of the parent, custodian, or legal guardian is being unreasonably withheld; or
 - (C) That the facts justify the minor's fear of physical or emotional abuse if her parent(s), custodian(s), or legal guardian(s) were requested to consent; or
 - (D) Any other good cause.

(c) Hearing. At the discretion of the court an order on the petition may be entered ex parte. If the court requires a hearing, it shall be held expeditiously. The clerk shall give notice to the minor and any petitioner on her behalf before the hearing.

(d) Judgment. The court shall enter a judgment within 48 hours after the petition is filed unless the time is extended at the request of the minor. The judgment shall recite findings in support of the ruling. If no judgment is entered within the time period, the petition shall be deemed granted and the clerk shall place a certificate to this effect in the file.

(e) Confidentiality. The proceedings shall be confidential so that the minor shall remain anonymous. The file shall be sealed unless otherwise ordered by the court. If the petition is granted, the clerk shall furnish a certified copy of the judgment or clerk's certificate to the petitioner for delivery to the minor's physician.

FLORIDA RULE OF APPELLATE PROCEDURE 9.110(1)

(1) **Exception.** Where an unmarried minor or another person on her behalf appeals an order denying a petition for termination of pregnancy, the district court of appeal shall render its decision on the appeal as expeditiously as possible and by no later than ten days from the filing of the notice of appeal. Briefs or oral argument may be ordered at the discretion of the district court of appeal. If no decision is rendered within the foregoing time period, the order shall be deemed reversed, the petition shall be deemed granted, and the clerk shall place a certificate to this effect in the file. The appeal and all proceedings thereon shall be confidential in order that the minor shall remain anonymous. The file shall remain sealed unless otherwise ordered by the court. Should the petition be granted, the clerk shall furnish the petitioner a certified copy of the decision or clerk's certificate for delivery to the minor's physician.

Original Proceeding - Rules of Civil Procedure and Rules of Appellate
Procedure